

REMARKS

Status of The Claims

Claims 1-21 are pending.

Claims 4, 6-10, and 20 are amended.

Claim 21 is new.

Support for new claim 21 is in the specification of WO 2004/053062 at page 3, lines 21-28, which specifically recites “A bent grass plant ASR-368 and seed comprising these molecules [SEQ ID NO:1 and SEQ ID NO:2] is an aspect of this invention.”

Response To Election/Restrictions

In an Office Action mailed April 26, 2007, the Examiner restricted the invention under 35 U.S.C. §§ 121 and 372 to one of four groups, as follows:

Group I, claims 1-12 and 19-18 [sic], drawn to a glyphosate tolerant transgenic bentgrass plant having event ASR-368 and method of using.

Group II, claims 13-16, drawn to a DNA detection kit..

Group III, claims 16 and 17, drawn to a method of detecting the presence of DNA.

Group IV, claim 20, drawn to a glyphosate tolerant bentgrass plant wherein the trait is genetically lined [sic] to a complement of a marker polynucleic acid.

According to the Examiner, the inventions listed as Groups I-IV do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features. According to the Examiner, “the broadest

inventive concept of the claims is glyphosate tolerant bentgrass,” and the “invention of Group IV does not require the event ASR-368, nor does the product used in the method of Group III.”

In response, Applicants elect to pursue Group I, claims 1-12 and 18-19, and respectfully traverse the restriction between Groups I, II, III, and IV. The inventions of Groups I-IV are linked by the inventive concept: bentgrass event ASR-368, which is **DEFINED** by the unique and diagnostic DNA junction sequences SEQ ID NOS:1-4. Such DNA junction sequences are the result of a single integration event of a heterologous DNA into a particular site within the genome of bentgrass. Thus, any bentgrass plant comprising these unique sequences is bentgrass event ASR-368.

Applicants respectfully disagree with the Examiner that the “broadest inventive concept of the claims is glyphosate tolerant bentgrass.” In fact, the broadest inventive concept is bentgrass event ASR-368 -- not any glyphosate tolerant bentgrass. We also disagree with the Examiner that the “invention of Group IV does not require the event ASR-368.” The invention of Group IV is a bentgrass with a glyphosate tolerant trait that is linked to SEQ ID NO:1 and SEQ ID NO:2. Thus, this bentgrass of Group IV is event ASR-368. In fact, **any** bentgrass plant comprising a glyphosate tolerant trait linked to SEQ ID NO:1 and SEQ ID NO:2 would be event ASR-368. Thus, Group I is linked to Group IV.

Applicants also disagree with the Examiner that “the product used in the method of Group III” does not require the event ASR-368. Group III corresponds to claims 16 and 17, which pertain to methods for detecting event ASR-368 in a DNA sample by searching for and identifying the unique junction sequences that define this event. Thus, the “product used in the method of Group III” not only requires event ASR-368, but is event ASR-368.

Furthermore, searching all 20 claims should not constitute any undue burden on the Examiner.

Applicants reserve the right to file one or more divisional applications directed to the non-elected subject matter.

Fees

A request for a one-month extension of time and the authorization for the associated fee are filed concurrently with this paper. Should any additional fees under 37 C.F.R. §§ 1.16-1.21 be required for any reason relating to the enclosed materials, the Commissioner is authorized to deduct any additional fees under 37 C.F.R. §§ 1.16-1.21 relating to the enclosed materials from Howrey LLP Deposit Account 08-3038/11899.0236.PCUS00.

Respectfully submitted,



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